

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

No. 21

**Introduced by Assembly Member Levine**

**(Coauthors: Assembly Members Chavez, Cohn, Evans, Goldberg, Jones, Koretz, Laird, Lieber, Montanez, Nava, and Ruskin)**

December 6, 2004

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An act to add Section 4069 to the Business and Professions Code, relating to pharmacy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 21, as amended, Levine. Pharmacists: ~~contraceptive devices~~ *prescriptions*.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and *makes a violation of that law a crime*. Under existing law, a ~~violation of those provisions is a crime~~ *prescription may be lawfully dispensed only by a pharmacist, unless otherwise specified by the Pharmacy Law*.

This bill would ~~prohibit~~ *require* a pharmacist ~~from declining~~ to dispense a ~~contraceptive or emergency contraceptive~~ *prescription except in specified circumstances*. The bill would allow a pharmacist to decline to dispense a prescription on ethical, moral, or religious grounds only if he or she satisfies certain conditions. The bill would require revocation of the pharmacist's license for a violation of its provisions.

Because the bill would specify an additional requirement under the Pharmacy Law, a violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4069 is added to the Business and  
2 Professions Code, to read:

3 ~~4069. Notwithstanding any other provision of law, a~~  
4 ~~pharmacist shall not decline to dispense a contraceptive or an~~  
5 ~~emergency contraceptive pursuant to a prescription.~~

6 4069. (a) *Notwithstanding any other provision of law, a*  
7 *pharmacist shall dispense a lawful prescription unless one of the*  
8 *following circumstances exists:*

9 (1) *The pharmacist determines, based on his or her*  
10 *professional training and judgment, that dispensing the*  
11 *prescription is contrary to law or, after consulting with the*  
12 *patient's prescriber, that it is contraindicated for the patient.*

13 (2) *The pharmacy does not have the prescribed trade or brand*  
14 *name drug in stock. The pharmacist shall offer the patient*  
15 *another drug product, if available, with the same active chemical*  
16 *ingredients of the same strength, quantity, and dosage form and*  
17 *of the same generic drug name, as determined by the United*  
18 *States Adopted Names and accepted by the federal Food and*  
19 *Drug Administration, as the prescribed drug product and follow*  
20 *the procedure or protocol described in Section 4073.*

21 (3) (A) *The pharmacist elects to refuse on ethical, moral, or*  
22 *religious grounds to dispense a drug pursuant to an order or*  
23 *prescription. A pharmacist may decline to dispense a drug on*  
24 *these grounds only after notifying his or her employer in writing*  
25 *of the drug or class of drugs to which he or she objects. The*  
26 *pharmacist shall provide this notification upon acceptance of*  
27 *employment and immediately after any change to that decision.*

28 (B) *A pharmacist electing not to dispense a drug as described*  
29 *in subparagraph (A) shall take either of the following actions:*

1     (i) Upon the patient's request, return the prescription to the  
2 patient and refer him or her to a pharmacy that has the drug in  
3 stock.

4     (ii) Verbally verify, while the patient is waiting for the  
5 prescription to be dispensed, that another pharmacy has the drug  
6 in stock and will dispense it to the patient, promptly transfer the  
7 prescription to that pharmacy, and immediately provide this  
8 information to the patient.

9     (b) The board shall revoke the license of a pharmacist who  
10 violates this section.

11     SEC. 2. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the  
16 penalty for a crime or infraction, within the meaning of Section  
17 17556 of the Government Code, or changes the definition of a  
18 crime within the meaning of Section 6 of Article XIII B of the  
19 California Constitution.